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July 31, 2023

BY ECF

Honorable Jennifer E. Willis
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Hassab El Nabi v. Tocco, et al.*, 21 CV 3768 (LAK) (JW)

Your Honor:

I am plaintiff's former counsel. I write to respectfully oppose the letter filed by substitute counsel earlier this morning at DE #74.


If it should please the Court, this is the second time substitute counsel has filed a letter outside of the briefing schedule to multiply these proceedings and circumvent page limitations. *See* DE #57. As before, there is no merit to the arguments raised.

According to substitute counsel, our reply was improper because it included an affidavit from the defense attorney assigned to this case that purportedly exceeds the scope of the opposition. But the affidavit in question squarely addresses the core arguments raised by substitute counsel: that the undersigned was derelict in the discovery process and that, but for the efforts of substitute counsel, settlement would not have been achieved. Indeed, we respectfully submit that the attorney assigned to defend this case against the parties to this dispute is in a unique position to provide insight on the dispositive questions presented. Far from providing a basis to allow substitute counsel another bite at the apple (or to constitute the sort of impertinent submission appropriately subject to a Rule 12(f) motion to strike), the affidavit from Mr. Francolla is a relevant piece of evidence illustrating the weakness of substitute counsel's opposition.

Accordingly, we respectfully request that substitute counsel's letter motion be denied.

Thank you for your attention to this matter.

Respectfully submitted,


Gabriel P. Harvis

cc: All Counsel